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DEC 19 2003

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**TO: Commissioner of Patents
Attn: Examiner Marina Lamm
Alexandria, VA 22313-1450
Fax No. (703) 872-9306**

*I hereby certify that this correspondence is being facsimile transmitted to the United States
Patent and Trademark Office on December 19, 2003, to the above-identified facsimile number.*

 (Signature)

**FROM: Linda M. Sivik
Fax No. (513) 626-1355
Phone No. (513) 626-4122**

Listed below are the item(s) being submitted with
this Certificate of Transmission:

- 1) Response Transmittal including Request for Extension of Time + 1 copy;
- 2) Response to Restriction Requirement (3 pages)

Number of Pages Including this Page 6

In the Application of	:
Raymond E. Bolich Jr. et al.	: Examiner Marina Lamm
Serial No. 09/305,502	: Confirmation No. 2218
Filed May 5, 1999	: Group Art Unit 1616

Case 7547

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
RESPONSE/AMENDMENT

Mail Stop Non-Fee Amendment
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an AMENDMENT for the patent application:

Application No. : 09/305,502
Applicant(s) : Raymond Edward Bolich Jr. et al.
Filed : May 5, 1999
Title : AEROSOL HAIR STYLING COMPOSITIONS CONTAINING
SELECT POLYALKYLENE GLYCOL STYLING AGENTS
TC/A.U. : 1616
Examiner : Marina Lamm
Conf. No. : 2218
Docket No. : 7547

1. ☒ No additional fees (claims fees or extension fees) are known to be required.
2. ☐ The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)	OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA*	RATE	FEE
TOTAL	* 36	MINUS	** 40	= 0	x \$18 =	\$
INDEP.	* 4	MINUS	*** 4	= 0	x \$86 =	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$290 =	\$
					TOTAL	\$

3. ☒ The Commissioner is hereby petitioned under 37 CFR §1.136(a) to grant any extension of time needed for timely response to the Office Action dated July 2, 2003 in the above-identified application to preserve pendency of said application. The processing fee under 37 CFR §1.17 has been determined as follows: \$1440.00 for a 4-month extension of time.
4. The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 16-2480. A duplicate copy of this sheet is attached.
 - a. ☒ Any patent application processing fees under 37 CFR §1.16.
 - b. ☒ Any patent application processing fees under 37 CFR §1.17.
5. The Director is hereby authorized to make any additional copies of this sheet needed to accomplish the purposes provided for herein and to charge any fee for such copies to Deposit Account No. 16-2480.

By Linda M. Sivik
Linda M. Sivik
Attorney for Applicant(s)
Registration No. 44,982
(513) 626-4122

December 19, 2003
Customer No. 27752

Appl. No. 09/305,502
Atty. Docket No. 7547
Amdt. dated 12-19-2003
Reply to Office Action of 07-02-2003
Customer No. 27752

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/305,502
Applicant(s) : Raymond Edward Bolich Jr. et al.
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Title : AEROSAL HAIR STYLING COMPOSITIONS
CONTAINING SELECT POLYALKYLENE GLYCOL
STYLING AGENTS
TC/A.U. : 1616
Examiner : Marina Lamm
Conf. No. : 2218
Docket No. : 7547

RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121

Box Non-Fee Amendment
Honorable Commissioner of Patents
Alexandria, VA 22313-1450

Dear Madam:

INTRODUCTORY REMARKS

In response to the July 2, 2003 Restriction Requirement received in connection with the above-identified application, the time for response being extended by four (4) months, pursuant to the fee charged to the Assignee's Deposit account in the papers submitted herewith, please consider the remarks made herein.

Appl. No. 09/305,502
Atty. Docket No. 7547
Amdt. dated 12-19-2003
Reply to Office Action of 07-02-2003
Customer No. 27752

Invention Synopsis

The present invention relates to an aerosol hair styling composition comprising: from about 5% to about 90% by weight of a polyalkylene glycol that is substantially free of polyalkylene glyceryl ethers and that has a number average molecular weight of from about 190 to about 1500 and from about 5 to about 35 repeating alkylene oxide radicals wherein each of the repeating alkylene oxide radicals has from 2 to 6 carbon atoms; from about 1% to about 90% by weight of a liquid carrier; and from about 5% to about 40% by weight of a propellant.

Response to Restriction Requirement

Restriction of Applicants' claimed invention has been required under 35 U.S.C. §121. The Office Action contends that restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-33 and 37-39, drawn to an aerosol hair styling composition, a method of making it and a method of using it, classified in class 424, subclass 47.
- II. Claims 34-36 and 40, drawn to a hair styling composition and a method of using it, classified in class 424, subclass 70.11

Election of a single disclosed species was further requested for each of the following:

Claims 1-4, 6-16, 18-29 and 31-40 are generic to a plurality of disclosed patentably distinct series comprising:

- (a) Polyethylene/polypropylene glycol copolymers;
- (b) Polyglycerins;
- (c) Polypropylene glycols; and
- (d) Polyethylene glycols.

For the purpose of complying with the election request, Applicants provisionally elect, with traverse, Group I, Claims 1-33 and 37-39, drawn to an aerosol hair styling composition, a method of making it and a method of using it, classified in class 424, subclass 47, holding Claims 34-36 and Claim 40 in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims.

For the purpose of complying with the election request, Applicants provisionally elect with traverse the following species: (d) polyethylene glycols.

The restriction requirements are respectfully traversed herein.

Appl. No. 09/305,502
Atty. Docket No. 7547
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The Examiner submits that the compositions of Group I and Group II are distinct inventions as the combination as claimed does not require the particulars of the subcombination as claimed for patentability and that the subcombination has utility itself or in other combinations.


Applicants respectfully submit that the claims of Group I and Group II are so closely interrelated and in order to preserve unity of invention, both groups should be prosecuted in the same application. The PTO examination would be simplified and duplicate searching eliminated by pursuing one as opposed to two or more applications. Applicants respectfully submit that it would not be unduly burdensome to search for and examine all of the claims in the present application. Restriction is proper only when the inventions are independent or distinct as claimed and it would be unduly burdensome to search for and examine all of the inventions in a single application (see MPEP 803). It is submitted that prosecution of all of the claims in this present single application would also be permitted and would indeed be quite appropriate. It is submitted that in the present case, any prior art search set up for the compositional claims of Group I would be coextensive with that for the method claims of Group II, because the novel compositions involve the same compositional material.

Conclusion

In view of the foregoing remarks, it is therefore respectfully submitted that the restriction requirement be withdrawn in the instant case and Claims 1-40 be permitted to be prosecuted in the same application. In the event that this restriction requirement is made final, for the purpose of complying with the election request, Applicants provisionally elect, with traverse, Group I. Claims 1-33 and 37-39, drawn to an aerosol hair styling composition, a method of making it and a method of using it, classified in class 424, subclass 47, holding Claims 34-36 and Claim 40 in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims. Further, for the purpose of complying with the election request, Applicants provisionally elect with traverse the following species: (d) polyethylene glycols.

Respectfully submitted,

Raymond Edward Bolich et al

By 

Linda M. Sivik

Attorney for Applicant(s)

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December 19, 2003
Customer No. 27752